

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

IMPLICIT, LLC

Plaintiff,

vs.

IMPERVA, INC.,

Defendant.

Civil Action No. 2:19-cv-00040-JRG-RSP
(Lead Case)

vs.

JUNIPER NETWORKS, INC.,

Defendant.

Civil Action No. 2:19-cv-37-JRG-RSP
(Consolidated Case)

**DECLARATION OF DAVID MCPHIE IN SUPPORT OF JUNIPER'S
OPPOSITION TO IMPLICIT'S MOTION FOR RECONSIDERATION**

I, David McPhie, declare and state as follows:

1. I am a partner at Irell & Manella LLP, counsel of record for Juniper Networks, Inc. in this matter. I am a member in good standing of the State Bar of California. I have personal knowledge of the facts set forth in this Declaration.

2. On November 6, 2019, I met and conferred via telephone with previous counsel for Implicit regarding Juniper's supplemental motion to transfer based on the Intel License. Our phone call included a discussion regarding the possibility of Implicit dropping some patent claims currently asserted in the case. However, following that call, Implicit did not follow up on the issue and did not communicate any intent to actually drop specific claims that had been asserted against Juniper.

3. Following the hearing on Juniper's supplemental transfer motion on February 6, 2020, counsel for Implicit has not contacted counsel for Juniper regarding the withdrawal of any of Implicit's claims against Juniper. Nor has Implicit served on Juniper any allegedly updated infringement contentions or any proposed amended complaint. To my knowledge, Implicit has not filed any motion to amend its pleadings or infringement contentions as of the date of this declaration. I learned of Implicit's desire to drop claims for the first time upon reading Implicit's motion for reconsideration as filed (Dkt. 44).

4. Attached as Exhibit 1 is an excerpt of the transcript from the hearing on Juniper's supplemental motion to transfer before this Court on February 6, 2020.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of May 2020, at Newport Beach, California.

/s/ David McPhie

David McPhie